DETAILED ACTION

1. This office action is in response to the amendment of January 22, 2008. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 11, 13-14 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Pace et al. US 6,575,714. Pace teaches all the limitations as substantially claimed for a pump 5 including: **[claim 11]** a housing 55 for a pumping device, the housing 55 having a housing wall 45 constructed as a filter through which water can flow into the housing 55, a first outlet 95 through which water can be pumped out of the housing 55, and at least one additional filtered intake element 145 which is detachably mounted to the housing 55 (as shown in figure 7)0, each said additional filtered intake element 145 having at least one filter surface, one of elements 151 and 152, through which water can flow into the housing 55; **[claim 13]** a housing 55 has a longitudinal axis, said wall 45 being parallel to said longitudinal axis; **[claim 14]** a filter, the filter of wall element 45, through which water can flow into the housing 55 comprises a pair of filter surfaces, as defined by circumferential surface of element 45 as

it is made of two hemispheres that surround a longitudinal axis, which are symmetric to the longitudinal axis; **[claim 17]** and a pump 5 wherein each additional filtered intake element 145 has an outer filter surface 152 through which water can flow into the housing 55 and an inner filter surface 152 through which water can flow into the housing 55; **[claim 18]** housing 55 further comprises a suction connection 148, the fountain pump 5 further comprising a filter connector 100 which can be connected to said suction connection 148, wherein said at least one additional filtered intake element 145 can be connected to said filter connector 100 (as sown in figure 1); **[claim 19]** a filter connector 100 has a control element 35 for adjusting a waterworks function at the outlet 95.

4. Claims 11 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindermier et al. US 6,423,218. Lindermeir teaches all the limitations as claimed for a pump 60 (fig. 6) including: **[claim 11]** a housing 62 for a pumping device, the housing 62 having a housing wall 63 constructed as a filter through which water can flow into the housing 62, a first outlet 64 through which water can be pumped out of the housing 62, and at least one additional filtered intake element 61 which is detachably mounted to the housing 62, each said additional filtered intake element 61 having at least one filter surface through which water can flow into the housing 62, as shown in figure 6; **[claim 20]** and a second outlet 65 through which water can be pumped out of the housing 62.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 12 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pace et al. US 6,575,714 in view of Young 4,795,570, as evidenced by Powers US 2,689,048. Pace teaches all the limitations as discussed including: **[claims 12 and 15]** at least one additional filtered intake element 145 comprises a pair filtered intake elements, elements 151 and 152, which are connected to the housing 55 over respective said filter surfaces 45. Pace fails to teach the following limitations that are taught by Young including: **[claims 12 and 15]** at least one additional filtered intake element, one of elements 56, 58, 60 and 62 each having element 74 on an inner surface, comprises a pair of wing-like filtered intake element, as shown in figure 3, which are hinged, via element 64, to a housing 22 over a housing wall constructed as filter, as with element 23, each said additional filtered intake element, one of element 56, 58, 60, and 62 each having element 74 on an inner surface, being pivotable from a first position against said wall 22, as shown in figure 2, to a second position away from said wall 22, as shown in figure 3; **[claim 16]** and a housing 22 has an upper side, each of said additional filtered intake elements, elements 56 and 62 as set from additional filter

intake elements defined by elements 56, 58, 60, and 62 each having element 74 on an inner surface, being hinged, via element 64, to the upper side, as shown in figures 2 and 3. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the outer intake filter (145) of Pace to have either one or two hinges as taught by Young in order be able to provide access to the components of a pumping apparatus without have to completely disassemble the entire apparatus (Powers – col. 3 ll. 42-49).

8. Claims 21, 23-24, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pace et al. US 6,575,714 in view of Young 4,795,570, as evidenced by Powers US 2,689,048. Pace teaches all the limitations for a pump including: **[claim 21]** a housing 55 for a pumping device 5, the housing 55 having a pair of opposed end faces, elements 105 and 110, and a housing wall 45 extending between said end faces, said housing wall having at least one filter surface through which water can flow into the housing 55 (col. 4 ll. 45-52), a first outlet 95 through which water can be pumped out of the housing 55, and at least one additional filtered intake element 145 connected to said housing 55 over a respective said at least one filter surface 45, said filtered intake element 145 being pivotable from a first position against said filter surface of said wall to a second position away from said filter surface of said wall, said additional filtered intake element 145 having an outer filter surface 152 through which water can flow into the housing 55, and an inner filter surface 151 through which water can flow into the housing 55; **[claim 23]** at least one filter surface 45 of said wall is recessed from said end faces, elements 105 and 110; **[claim 26]** a housing wall 45 has a pair of symmetrically opposed filter surfaces, as defined by circumferential surface of element 45 as it is made of two cylindrical hemispheres that surround a longitudinal axis,

through which water can flow into the housing 55, said pump 5 comprising a pair of filtered intake elements, elements 151 and 152 of element 145, connected to said housing 55 over respective said filter surfaces 45 of said housing wall; **[claim 27]** and a housing 55 comprises a suction connection 100 in one of said end faces, element 105 of elements 105 and 110, said pump 5 further comprising a filter connector 148 which can be connected to said suction connection 100, wherein said at least one additional filtered intake element 145 can be detached from the housing 55 and secured to the filter connector 148; **[claim 28]** and a cover, as end face element 105 disposed on element 100, which can be placed over said suction connection 100 (see figure 7).

Pace fails to teach the following limitations that are taught by Young including: **[claim 21]** one or a plurality of filtered intake elements, one of elements 56, 58, 60 and 62 each having element 74 on an inner surface, which are hinged to a housing 22 over at least one of a filter surface of a housing wall, as defined by element 23 within element 22, the filtered intake elements, one of elements 56, 58, 60 and 62 each having element 74 on an inner surface, being pivotable from a first position against said filter surface 23 of said wall 22, as shown in figure 2, to a second position away from said filter surface 23 of said wall 22, as shown in figure 3; **[claim 24]** least one additional filtered intake elements, one of elements 56, 58, 60 and 62 each having element 74 on an inner surface, is flush with an end face 46 of a housing 22; **[claim 26]** and a pair of filtered intake elements, one of the sets of elements 56 and 62 or elements 58 and 60, hinged, via element 64, to a housing 22 over a filter surface 23 of a housing wall 22.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the outer intake filter (145) of Pace to have either one or two hinges as taught by Young in order be able to provide access to the components of

a pumping apparatus without have to completely disassemble the entire apparatus (Powers – col. 3 ll. 42-49).

9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pace et al. US 6,575,714 in view of Young 4,795,570, as evidenced by Powers US 2,689,048 as applied to claim 21 above. A combination of the references teaches general conditions of the claimed invention except for the express disclosure of a filtered intake surface approximately tripled when an additional filtered intake element is in a second position as compared to a first position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to triple an intake surface, since the claimed values are merely an optimum or workable range. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pace et al. US 6,575,714 in view of Young 4,795,570, as evidenced by Powers US 2,689,048 as applied to claim 21 above. A combination of the references teaches all the limitations as discussed but fails to teach end faces having a substantially oval shape. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. In re Dailey et al., 149 USPQ 47. A Change in aesthetic (ornamental) design generally will not support patentability. In re Seid, 73 USPQ 431.

Response to Arguments

11. Applicant's arguments with respect to claims 11-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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